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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,300	11/20/2003	Herman Rodriguez	AUS920030754US1	9778
45440	7590	09/13/2005	EXAMINER	
IBM CORPORATION (SS) C/O STREETS & STEELE 13831 NORTHWEST FREEWAY, SUITE 355 HOUSTON, TX 77040			LE, DANH C	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/718,300

Applicant(s)

RODRIGUEZ ET AL.

Examiner

DANH C. LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-32, 36-52, 55-60 is/are rejected.
- 7) ☒ Claim(s) 12-14, 33-35 and 52-54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 11/20/03 has been considered by the examiner and made of record in the application file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-6, 10, 15-17, 19, 25-29, 36-39, 45-51, 55 are rejected under 35**

**U.S.C. 102(e) as being anticipated by Mottes (US 2004/0162058).**

As to claim 1, Mottes teaches a method (figure 10, 11 and paragraph 0083), comprising:

sensing a wireless device within a proximity to a terminal that supports wireless communication, wherein the proximity is within a wireless communication coverage area of the terminal;

establishing wireless communication between the wireless device and the terminal, wherein the terminal is communicatively connected to a server;

transferring an identification code from the wireless device to the terminal;

sending the identification code from the terminal to the server;

matching the identification code with an account identity of a business transaction card;

increasing a funds available balance of the business transaction card (paragraph 0038).

As to claim 2, Mottes teaches the method of claim 1, wherein the wireless device is a smart card (paragraph 0041, 0046)

As to claim 3, Mottes teaches the method of claim 2, wherein the smart card is the business transaction card (paragraph 0009).

As to claim 4, Mottes teaches the method of claim 1, wherein the business transaction card is selected from a credit card, a debit card, a bank card, a cash card, a value card and combinations thereof.

As to claim 5 Mottes teaches the method of claim 1, wherein the wireless device is selected from the group consisting of a mobile telephone, a personal digital assistant and a personal computer (figure 10).

As to claim 6, Mottes teaches the method of claim 1, wherein the terminal is at a location selected from the group consisting of an ATM machine, a bank, a credit union, a business establishment, a retail establishment and combinations thereof (figure 10).

As to claim 10, Mottes teaches the method of claim 1, further comprising:  
accessing account information stored on the server in a database, wherein the account information is associated with the account identification of the business transaction card (figure 10).

As to claim 15, Mottes inherently teaches the method of claim 1, after the step of automatically increasing the available funds balance of the business transaction card, the method further comprising sending a message that the available funds balance was increased, wherein the message is delivered to a device selected from a mobile telephone, a personal computer, a personal digital assistant, a smart card or combinations thereof (paragraph 0038, the payment card Issuer is responsible for the credit and figure 7).

As to claim 16, Mottes teaches the method of claim 1, wherein the authorization code and the account identification comprises numbers, letters or combinations thereof (figure 11).

As to claim 17, Mottes teaches the method of claim 1, wherein the wireless communication uses Bluetooth protocol (paragraph 0086).

As to claim 19, Mottes teaches the method of claim 1, wherein the wireless communication operates in a personal area network (paragraph 0006).

As to claim 25, the claim is a computer software claim of claim 1; therefore, the claim is interpreted and rejected as set forth as claim 1.

As to claim 26, the claim is a computer software claim of claim 2; therefore, the claim is interpreted and rejected as set forth as claim 2.

As to claim 27, the claim is a computer software claim of claim 3; therefore, the claim is interpreted and rejected as set forth as claim 3.

As to claim 28, the claim is a computer software claim of claim 4; therefore, the claim is interpreted and rejected as set forth as claim 4.

As to claim 29, the claim is a computer software claim of claim 5; therefore, the claim is interpreted and rejected as set forth as claim 5.

As to claim 30, the claim is a computer software claim of claim 6; therefore, the claim is interpreted and rejected as set forth as claim 6.

As to claim 31, the claim is a computer software claim of claim 10; therefore, the claim is interpreted and rejected as set forth as claim 10.

As to claim 36, the claim is a computer software claim of claim 15; therefore, the claim is interpreted and rejected as set forth as claim 15.

As to claim 37, the claim is a computer software claim of claim 16; therefore, the claim is interpreted and rejected as set forth as claim 16.

As to claim 38, the claim is a computer software claim of claim 17; therefore, the claim is interpreted and rejected as set forth as claim 17.

As to claim 39, the claim is a computer software claim of claim 19; therefore, the claim is interpreted and rejected as set forth as claim 19.

As to claim 45, the claim is a system claim of claim 1; therefore, the claim is interpreted and rejected as set forth as claim 1.

As to claim 46, the claim is a system claim of claim 2; therefore, the claim is interpreted and rejected as set forth as claim 2.

As to claim 47, the claim is a system claim of claim 3; therefore, the claim is interpreted and rejected as set forth as claim 3.

As to claim 48, the claim is a system claim of claim 5; therefore, the claim is interpreted and rejected as set forth as claim 5.

As to claim 49, the claim is a system claim of claim 6; therefore, the claim is interpreted and rejected as set forth as claim 6.

As to claim 50, the claim is a system claim of claim 10; therefore, the claim is interpreted and rejected as set forth as claim 10.

As to claim 51, the claim is a system claim of claim 11; therefore, the claim is interpreted and rejected as set forth as claim 11.

As to claim 55, the claim is a system claim of claim 17; therefore, the claim is interpreted and rejected as set forth as claim 17.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 7-9, 11, 18, 24, 32, 44, 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mottes.**

As to claims 7-9, 11, 18 and 24, Mottes teaches the method of claim 1, Mottes fails to teach the proximity is between about 0.1 foot and about 300 feet from the terminal, about 1 foot and about 50 feet from the terminal, about 4 feet and about 10 feet from the terminal, the account information comprises the identification code, the account identification, paid transactions, a funds available balance, an authorized debit card user, an account owner, and the authorized incremental funds amount, the wireless communication uses WiFi protocol and encrypting the wireless communication.

However, the examiner takes Official Notice that recited limitations are known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of above recited limitations into the system of Mottes in order to enhance the system performance of multi MVNO and service provider platform and management.

As to claim 32, the claim is a computer software claim of claim 11; therefore, the claim is interpreted and rejected as set forth as claim 11.

As to claim 44, the claim is a computer software claim of claim 24; therefore, the claim is interpreted and rejected as set forth as claim 24.

As to claim 56, the claim is a system claim of claim 18; therefore, the claim is interpreted and rejected as set forth as claim 18.

**4. Claims 20-23, 40-43, 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mottes in view of Parks (US 2004/0185827).**

As to claim 20, Mottes teaches the method of claim 1, Mottes fails to teach receiving the authorized incremental funds amount as an input and storing the authorized incremental funds amount in the database. Parks teaches receiving the authorized incremental funds amount as an input and storing the authorized incremental funds amount in the database (figure 80). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Parks into the system of Mottes in order to transact for replenishment of an account using a credit/debit card.



As to claim 21, the combination of Mottes and Parks teaches the method of claim 1, further comprising receiving limitations for use of the business transaction card, wherein the limitations are selected from geographical use, time period of use, and merchant classification; and storing the limitations for use of the business transaction card in the database (figure 6A, 6B).

As to claim 22, the combination of Mottes and Parks teaches the method of claim 1, further comprising receiving authorization instructions and storing the authorization instructions in the database (figure 6A, 6B).

As to claim 23, the combination of Mottes and Parks teaches the method of claim 22, wherein the authorization instructions are selected from the group consisting of a terminal location to receive the wireless communication, a time to receive the wireless communication and combinations thereof (figure 6A, 6B).

As to claim 40, the claim is a computer software claim of claim 20; therefore, the claim is interpreted and rejected as set forth as claim 20.

As to claim 41, the claim is a computer software claim of claim 21; therefore, the claim is interpreted and rejected as set forth as claim 21.

As to claim 42, the claim is a computer software claim of claim 22; therefore, the claim is interpreted and rejected as set forth as claim 22.

As to claim 43, the claim is a computer software claim of claim 23; therefore, the claim is interpreted and rejected as set forth as claim 23.

As to claim 57, the claim is a system claim of claim 20; therefore, the claim is interpreted and rejected as set forth as claim 20.

As to claim 58, the claim is a system claim of claim 21; therefore, the claim is interpreted and rejected as set forth as claim 21.

As to claim 59, the claim is a system claim of claim 22; therefore, the claim is interpreted and rejected as set forth as claim 22.

As to claim 60, the claim is a system claim of claim 23; therefore, the claim is interpreted and rejected as set forth as claim 23.

#### ***Allowable Subject Matter***

Claims 12-14, 33-35, 52-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 12, 33, 52, the teaching of above prior arts either alone or in combination fails to teach method of claim 10, further comprising comparing the authorized incremental funds amount and a funds available balance contained in the account information, determining if the funds available balance is less than the authorized incremental funds amount and determining if an authorization exists to increase the funds available balance.

Dependent claims 13, 14, 34-35, 53-54 are objectable for the same reason.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Freeny, Jr (US 2002/0187779) teaches communication and proximity authorization systems.

B. Labrou et al (US 2005/0027543) teaches methods for purchase of goods and services.

C. Woodward et al (US 6,434,159) teaches transaction system and method therefore.

D. Blumberg et al (US 2004/0110515) teaches system and method for providing information based on geographic position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C. LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

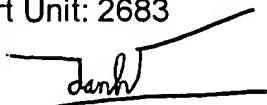
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "danh", is written over a horizontal line. A diagonal line extends upwards from the right side of the signature.

September 2, 2005.

DANH CONG LE

PATENT EXAMINER